1. D.B. CIVIL WRIT PETITION NO.2831/2006
Hindustan Zinc Limited Vs. Customs, E.S.T.A.T., New Delhi & Ors.

2. D.B. CIVIL WRIT PETITION NO.2853/2006
Hindustan Zinc Limited Vs. Customs, E.S.T.A.T., New Delhi & Ors.

3. D.B. CIVIL WRIT PETITION NO.2854/2006
Hindustan Zinc Limited Vs. Customs, E.S.T.A.T., New Delhi & Ors.

4. D.B. CIVIL WRIT PETITION NO.2855/2006
Hindustan Zinc Limited Vs. Customs, E.S.T.A.T., New Delhi & Ors.

5. D.B. CIVIL WRIT PETITION NO.2856/2006
Hindustan Zinc Limited Vs. Customs, E.S.T.A.T., New Delhi & Ors.

6. D.B. CIVIL WRIT PETITION NO.2857/2006
Hindustan Zinc Limited Vs. Customs, E.S.T.A.T., New Delhi & Ors.

7. D.B. CIVIL WRIT PETITION NO.2858/2006
Hindustan Zinc Limited Vs. Customs, E.S.T.A.T., New Delhi & Ors.

8. D.B. CIVIL WRIT PETITION NO.2859/2006
Hindustan Zinc Limited Vs. Customs, E.S.T.A.T., New Delhi & Ors.

Date of order : 19th Dec., 2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Dinesh Mehta for the petitioners.

Mr. V.K. Mathur) for the respondents.
Mr. Kuldeep Mathur)

BY THE COURT (PER HON'BLE RAJESH BALIA, J.)

These 8 writ petitions have come in the light of following facts:-

In respect of the petitioner which is common in all 12 appeals preferred before the Tribunal, while 8 appeals, to which these writ petitions relate, vide order dated 10.4.2006, the petitioner was required to deposit a consolidated amount of Rs.25 lacs within a period of 8 weeks as pre-deposit for hearing the appeals on merit and deposit of balance amount was waived but another Bench of the Tribunal by another order dated 12.4.2006 suspended the pre-deposit in its entirety and allowed the appeal on merit. It is not in dispute that subject matter of all the 12 appeals are identical. In these circumstances, apparently, there is no reason that the petitioner be first subjected to two such varied orders on the fortuitous circumstances to subject him to honours conditions for entering on same appeals to hear on merit.

Apparently, the two such divergent views coming at a distance of mere two days by same Tribunal show the total arbitrariness of orders under challenge.

Now there is no dispute that the other 4 appeals in fact were allowed by the Tribunal on merit raising same issues on identical facts. No useful purpose would be served by directing the petitioner first to proceed to deposit the said amount and then enter for hearing and on being successful, ask for refund of amount and further subject to proceedings under Section 11B.

Accordingly, we set aside the impugned order directing the petitioner to pre-deposit consolidated sum of Rs.25 lacs before hearing of 8 appeals and further direct that the Tribunal shall hear all these 8 appeals on merit without insisting on pre-deposit of any amount as was done in respect of other 4 appeals and the appeals in question shall be decided after considering the orders already passed in remaining appeals on 12.4.2006.

There shall be no orders as to costs.

[GOPAL KRISHAN VYAS], J. [RAJESH BALIA], J.

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